

TENTATIVE RULINGS

FOR: April 3, 2012

Please note that the court will strictly enforce filing deadlines for papers filed in support of and in opposition to law and motion matters, and may exercise its discretion to disregard a late filed paper, pursuant to California Rules of Court, rule 3.1300(d).

When calculating filing deadlines for papers to be filed within a certain number of court days from a hearing date, parties should exclude court holidays.

Court Reporting Services - As a result of statewide budget reductions, official court reporters are no longer provided by the Court in proceedings for which such services are not legally mandated. These proceedings include civil law and motion matters. If counsel wish to have the hearing on their civil law and motion matter reported, they have two options:

- Elect to use the services of a private local court reporter that the Napa County Bar Association has arranged to be present for the duration of all scheduled law and motion hearing calendars. There is a fee paid by the party directly to the court reporter for this service, and arrangements for payment can be made on the day of the hearing. For further information about the Bar Association program including fees, [click here](http://napacountybar.org/court_reporting.php) (http://napacountybar.org/court_reporting.php)
- Arrange for a private court reporter of their choosing to be present.

Attorneys or parties should confer with each other to avoid having more than one court reporter present for the same matter.

PROBATE CALENDAR – Dept. C (Historic Courthouse)

Estate of Holman

26-56771

REPORT OF STATUS OF ADMINISTRATION; PETITION FOR SETTLEMENT ON WAIVER OF FIRST AND FINAL ACCOUNT, WAIVER OF FEES, COMMISSIONS AND COSTS, AND PETITION FOR FINAL DISTRIBUTION

TENTATIVE RULING: GRANT PETITION

Estate of Glasson

26-58415

PETITION TO ADMINISTER ESTATE

TENTATIVE RULING: GRANT PETITION

Estate of Vanderschoot

26-56933

FIRST AND FINAL ACCOUNT AND REPORT OF ADMINISTRATOR; PETITION FOR SETTLEMENT, FOR FEES, FOR FINAL DISTRIBUTION AND FOR EXONERATION OF BOND

TENTATIVE RULING: GRANT PETITION, INCLUDING FEES AND/OR COMMISSIONS AS PRAYED.

Conservatorship of Campbell

26-58412

PETITION FOR APPOINTMENT OF LIMITED CONSERVATOR OF THE PERSON

APPEARANCE REQUIRED

In re Goodsell Living Trust

26-58351

PETITION FOR ORDER DETERMINING TITLE TO PROPERTY

TENTATIVE RULING: GRANT PETITION

CIVIL LAW & MOTION – Dept. C (Historic Courthouse)

In re Duhamneau name change petition

26-58117

PETITION FOR CHANGE OF NAME

TENTATIVE RULING: Notice has been properly published and no written objections have been filed. The petition for name change shall therefore be GRANTED without need for appearance.

Shipman, et al. v. Napa County

26-52881

PLAINTIFFS' MOTION TO SET ASIDE RULING ON DEMURRER

TENTATIVE RULING: Plaintiffs' motion to set aside ruling on demurrer is, in fact, a motion for reconsideration of Judge Guadagni's February 17, 2012 ruling sustaining the defendants' demurrer to the Second Amended Complaint without leave to amend. This motion must be heard by Judge Guadagni. The matter is continued to Monday April 16, 2012 at 10:00 a.m. in Department E.

The court notes that defendants have filed a motion to strike, deny or tax costs in this case, which is on calendar on April 11, 2012 at 8:30 a.m. in Department C. That matter is also ordered continued to Monday April 16, 2012 at 10:00 a.m. in Department E.

DEFENDANTS' MOTION FOR SANCTIONS

TENTATIVE RULING: Defendants' motion for CCP § 128.7 sanctions is DENIED for failure to give proper notice to plaintiff under the "safe harbor" provisions of the statute. Pursuant to section 128.7(c)(1), a motion for sanctions must be served on the party/attorney against whom sanctions are sought at least 21 days before the same motion is filed with the court. Here, the motion was both filed and served on February 28, 2012. It does not suffice that counsel for defendants previously e-mailed requests to plaintiff's counsel that he dismiss this action. The statute requires service of the actual motion for sanctions. In addition, it must be noted that plaintiff is no longer in a position to withdraw the offending complaint, as on February 29, 2012, this court sustained without leave to amend the demurrer filed by all defendants.

The Case Management Conference currently set for April 16, 2012 is ordered changed to an OSC re: dismissal.

DEFENDANT'S MOTION TO SET ASIDE DEFAULT AND DEFAULT JUDGMENT

TENTATIVE RULING: Defendant's motion to set aside the default and default judgment is GRANTED. Although the question of whether the defendant's neglect was excusable is a close one, to further the strong public policy of resolving matters on their merits, and because there appears to be no prejudice from doing so, the court exercises its discretion to set aside the default and judgment. The court will, however, impose a \$500 penalty on plaintiffs, pursuant to CCP § 473(c)(1)(a).

Defendant's Answer shall be filed forthwith. The matter is set for a Case Management Conference on May 2, 2012 at 8:30 a.m. in Department B.

DEFENDANTS' MOTION TO SET ASIDE DEFAULT

TENTATIVE RULING: Defendants' unopposed motion to set aside default appears meritorious and shall be GRANTED, as prayed. Defendants shall file their answer within 5 days.

The plaintiff's motion for default judgment, on calendar April 13, 2012, is ordered vacated.